

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS**

**GALVESTON DIVISION**

DIVISION 80 LLC,

*Plaintiff,*

v.

Civil Action No. 3:22-CV-00148

MERRICK GARLAND, in his official  
capacity as Attorney General of the  
United States, *et al*,

*Defendants.*

**EMERGENCY UNOPPOSED MOTION TO AMEND SCHEDULING ORDER**

Plaintiff Division 80, LLC (“Division 80”) files this Emergency Motion to Amend the Scheduling Order, ECF No. 76 (“Scheduling Order”). Defendants do not oppose this Emergency Motion.

As grounds thereof, Plaintiff states the following:

1. On September 15, 2022, the Court issued a Scheduling Order (ECF No. 76).

The Scheduling Order included the following deadlines:

**Deadline**

**Date**

Defendants File Administrative Record

October 14, 2022

Defendants File Response Pleading to Plaintiff’s Complaint

December 2, 2022

Plaintiff’s Motion for Summary Judgment

February 10, 2023

Defendants’ Cross-Motion for Summary Judgment and  
Opposition to Plaintiff’s Motion

March 10, 2023

Plaintiff's Reply in Support of Its Motion and Opposition to  
Defendants' Cross-Motion

April 7, 2023

Defendants' Reply in Support of Cross-Motion

May 5, 2023

2. Lead Counsel for Plaintiff ("Lead Counsel") has been unavailable because of a medical emergency that has hospitalized an immediate family member for the last three weeks.

3. Plaintiff's counsel conferred with lead counsel for Defendants regarding a two-week extension due to the circumstances surrounding Lead Counsel's family medical emergency and unavailability.

4. Defendants' lead counsel, after conferring with his clients, indicated that Defendants do not oppose the requested two-week extension.

5. Further, the parties agreed to ask this Honorable Court to amend the Scheduling Order by pushing all merits briefing deadlines back by two weeks:

**Deadline**

**Proposed Date**

Plaintiff's Motion for Summary Judgment

February 24, 2023

Defendants' Cross-Motion for Summary Judgment and  
Opposition to Plaintiff's Motion

March 24, 2023

Plaintiff's Reply in Support of Its Motion and Opposition to  
Defendants' Cross-Motion

April 21, 2023

Defendants' Reply in Support of Cross-Motion

May 19, 2023

6. Federal Rule of Civil Procedure 16(b)(4) provides that a schedule "may be modified only for good cause and with the judge's consent." Fed. R. Civ. P. 16(b)(4).

7. Given the recent, challenging medical emergency of Lead Counsel's immediate family member, there is good cause for the limited relief requested.

8. No party will be prejudiced by the limited requested relief.

WHEREFOR, Plaintiff respectfully requests that this Honorable Court grant this Emergency Unopposed Motion.

Respectfully submitted,

/s/ J. Christopher Amrhein, Jr.

Michael J. Sullivan (Lead)  
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J. Christopher Amrhein, Jr.  
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*Counsel for Plaintiff Division 80 LLC*

**CERTIFICATE OF SERVICE**

I certify that on February 9, 2023, the foregoing document was served, via the Court's CM/ECF Document Filing System, upon the registered CM/ECF users in this action.

/s/ J. Christopher Amrhein, Jr.  
J. Christopher Amrhein, Jr.

**CERTIFICATE OF CONFERENCE**

I certify that on February 9, 2023, that counsel for Plaintiff conferred by phone and by email with counsel for Defendants in accordance with Local Rule 7.1. Counsel agree about the requested relief in this Emergency Unopposed Motion.

/s/ J. Christopher Amrhein, Jr.  
J. Christopher Amrhein, Jr.